

Nos. 14930-31-32

IN THE  
**United States Court of Appeals**  
FOR THE NINTH CIRCUIT

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No. 14930

RAMESON BROTHERS, etc., *et al.*,  
*vs.*  
GEORGE T. GOGGIN, Trustee in Bankruptcy, etc. *et al.*,

*Appellants,*  
*Appellees.*

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No. 14931

FREDERICK M. RAMESON, Bankrupt,  
*vs.*  
GEORGE T. GOGGIN, as Trustee in Bankruptcy, etc. *et al.*,

*Appellant,*  
*Appellees.*

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No. 14932

WILLIAM W. RAMESON. Bankrupt,  
*vs.*  
GEORGE T. GOGGIN, Trustee in Bankruptcy, etc. *et al.*,

*Appellant,*  
*Appellees.*

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Appeals From the United States District Court for the  
Southern District of California, Central Division.

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**PETITION FOR REHEARING.**

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PAUL TAYLOR,  
215 West Seventh Street,  
Los Angeles 14, California,  
*Attorney for Appellants.*

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Appellants respectfully petition this Court for a re-hearing of the Opinion of this Honorable Court, heretofore rendered in the above entitled matter as of January 2, 1957, upon the following grounds:

Reference is made to the second paragraph, beginning on the 7th line at page 2 of the Opinion: The bankrupts

built houses after they had been sold on contract, with the exception of some built on their own account upon lots sold to them by a subdivider for a second encumbrance instead of cash [Clk. Tr. pp. 204, 205].

It is true the bankrupts were building houses for sale, but all but ten of them were built pursuant to contracts. They had started their business in October, 1949 [Clk. Tr. p. 110]. They built from 150 to 175 houses before any of the 35 or 36 which were scheduled in the bankruptcy [Clk. Tr. p. 200], and during this time the bankrupts relied wholly upon their bookkeeping department.

The Referee said he did not believe the testimony [Clk. Tr. p. 205], even though Trustee's counsel supported the bankrupts. It is respectfully submitted that when subdivision tract owners find a contractor who will build a house upon a lot sold to the builder for a second trust deed, the erection of that house creates additional demand for the seller's lots, and hence it is a common subdivider-builder practice, often referred to as "subordination" agreement, and is good business practice, especially in a fast-growing community such as the Los Angeles Metropolitan area. It appears that the Referee did not understand this [Clk. Tr. pp. 204-205]. And although he stated he did not believe it, yet there is no contrary evidence in the record to support his skepticism.

Page 3 of the Opinion, beginning with the third paragraph and the words, "The evidence clearly showed there were not sufficient books or records kept," etc., it is submitted that this deduction stems principally from the introductory remarks of counsel for the Trustee at the opening of the hearing of the hearing of Opposition to Discharge [Clk. Tr. pp. 164-168]. Appellees' chief witness

on this subject was bankrupts' chief accountant and head of their bookkeeping department [Clk. Tr. p. 170]. He personally lost \$4,500 on the construction of his own house [Clk. Tr. p. 177] by his employers, the bankrupts [Clk. Tr. p. 177] on which he kept books for them by his own system [Clk. Tr. p. 176]. He changed this system from a separate account for each house built to a general account, with the sanction of bankrupts' certified public accountant, Mr. Redmond [Clk. Tr. p. 176]. The bankrupts knew nothing about accounting or records other than as told them by their own chief accountant, Mr. Conrad [Clk. Tr. p. 200].

Beginning on page 3 of the Opinion, near the center of the last paragraph, with the words, "The Trustee indicated that by great labor, etc." The Trustee's own accountant, Mr. Johnson, testified he did not do considerable or extensive work on the bankrupts' books—only preliminary work [Clk. Tr. p. 183]. He said the accounting system was adequate had it been kept up to date [Clk. Tr. p. 185], and the books were apparently OK excepting the general ledger had not been posted during July, August, and September [Clk. Tr. p. 185]. He also stated that bankrupts' bookkeeper, Mr. Conrad, assisted him and took responsibility for the books and the system [Clk. Tr. p. 187]. The latter also worked for the Trustee for ten days or so.

As to the Opinion, page 7, beginning with the words, "The Referee remarked during the hearing . . ." It is submitted that the last sentence of the paragraph in quotations was a mistake by the Referee, in that there was no evidence the bankrupts induced any person to convey to them a lot or lots. As above mentioned, two subdividers sold lots to the bankrupts for a second trust deed,

but the bankrupts did not solicit this business. Counsel for the Trustee concerning these houses stated [Clk. Tr. p. 208]:

“Mr. Slane: I don’t think where title was is material to the issues in this case before the Court.

The Referee: We will disregard that.

Mr. Slane As far as I am concerned I am willing to disregard my examination regarding houses.

The Referee: It is all out.

Mr. Slane: I don’t think it is material to the question.

The Referee: It is all disregarded and out of my mind. Anything further?”

The appellants never had any business experience before this contracting business [Clk. Tr. p. 201]. The other partner had to do only with construction.

It is respectfully requested that a rehearing be granted that the Opinion of this Court may be reformed to correctly reflect the findings supported by evidence.

Respectfully submitted,

PAUL TAYLOR,

*Attorney for Appellants.*

**Certificate of Counsel.**

I, PAUL TAYLOR, counsel for Petitioners in the above entitled action, hereby certify that the foregoing petition for rehearing of this cause is presented in good faith and not for delay, and in my opinion is well founded in law and in fact, and proper to be filed herein.

PAUL TAYLOR,

*Attorney for Petitioners.*